



# RIGHTS STUFF

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Human Rights Commission

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## U.S. Department of Labor Clarifies FMLA Definition of "Son or Daughter"

In June, the U.S. Department of Labor clarified the definition of "son or daughter" under the Family and Medical Leave Act to make sure that employees who assume the role of child care provider receive parental rights to family leave regardless of their legal or biological relationship to the child.

Under the FMLA, covered employees are allowed to take up to 12 weeks of unpaid leave during any 12-month period to care for their loved ones or themselves. The law also allows employees to take time off for the adoption or birth of a child. The DOL interpretation clarified that this right to parental leave, which helps to provide work-family balance, extends to the various parenting relationships that exist in today's world.

In announcing the decision, Hilda L. Solis, DOL Secretary, said "No one who loves and nurtures a child day in and day out should be unable to care for that child when he or she falls ill. No one who steps in to parent a child when that child's biological parents are absent or incapacitated should be denied leave by an employer because he or she is not the legal guardian. No one who intends to raise a child should be denied the opportunity to be present when that child is born simply because the state or an employer fails to recognize his or her relationship

with the biological parent. These are just a few of the many possible scenarios. The Labor Department's action today sends a clear message to workers and employers alike: All families, including LGBT (lesbian, gay, bisexual and transgender) families are protected by the FMLA."

Under the new regulatory interpretation, an uncle who is caring for his niece and nephew when their single parent has been called to active military duty may exercise his right to family leave under the FMLA. A grandmother who assumes responsibility for her sick grandchild when her own child is debilitated will be entitled to FMLA rights. And an employee who intends to share in the parenting of a child with his or her same sex partner will be able to exercise the right to FMLA leave to bond with that child.

Under the FMLA, a federal law enacted in 1993, covered employers must grant eligible employees up to 12 work weeks of unpaid leave during any 12-month period for the birth and care of a newborn child, to adopt a child, to assume care for a foster child, to care for an immediate family member with a serious health condition or to take medical leave due to a serious medical condition. ♦

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## Garage Manager Can't Prove Race Discrimination

Clarence Shedd, an African American man, worked for a condominium association in Chicago as a garage manager. In 2004, a tenant was upset about a scratch on his car. He had a disagreement with Shedd about who had caused the scratch, called him names and threatened his job. The tenant did not use any derogatory racial words during this argument, but Shedd said the tenant had a history of angry outbursts containing racially derogatory terms.

After this incident, Shedd filed a complaint of race discrimination in employment with the Chicago Human Rights Commission. He later amended his complaint, saying that his employer wanted to fire him for filing the original complaint.

The new property manager, Janet Hope, had some disagreements with Shedd. He wanted to be paid \$4 above union scale, claiming that pay had been promised to him, but she refused unless he could show her a written agreement. He refused to let her park her car on the main floor, claiming that the rule was all employees' cars had to

be parked on the lowest level. She told him she was not an employee.

They had a meeting to discuss these conflicts. When Shedd was told that Hope was not an employee and thus didn't have to park on the lowest level, he became angry. He said, "I know where this is going" and left the meeting. He said he did not quit and did not threaten to quit, but merely waited around for a while and went home. On his next scheduled work-day he didn't go to work and didn't call in because he was upset.

Hope said that Shedd quit at the meeting. She said he walked up close to her in an intimidating manner and dropped his keys on her desk.

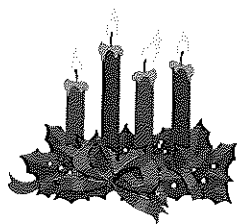
On Shedd's next scheduled work day, he reported to work. He found the lock had been cut off his locker. He asked Hope about this and she told him he no longer worked there.

Hope offered Shedd's job to an African American employee, who turned down the offer. She then hired a Puerto Rican man.

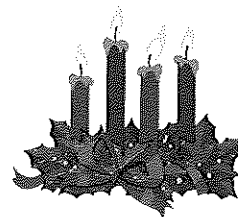
Shedd sued and lost at the summary judgment level. The Court said that he had no evidence that any of his former employer's "decisions were tainted by impermissible race-based motives." Shedd said that one property manager had called him "boy" on a few occasions, but these comments had been made years earlier.

The Court also said there was no evidence that the employer had retaliated against Shedd for having filed a complaint. His charges were filed before Hope became property manager. The Court said "there is nothing in the record to suggest a causal connection between those charges and Hope's actions." As Shedd himself testified, "there was a power struggle between himself and Hope over who controlled the garage. The Plaintiff thought his position was on equal footing with that of the property manager. Hope and defendant thought differently. Plaintiff lost that struggle, and he loses again in the instant case."

The case is Shedd v. 1550 N. Lakeshore Condo Association, 2010 WL 2681076 (N.D. Ill. 2010). ♦



*Have a Happy and Safe Holiday!!!*





## HUD Announces Policy To Help LGBT Community

The federal fair housing law does not include sexual orientation or gender identity as protected classes. The U.S. Housing and Neighborhood Development Department (HUD) recently clarified that even though those categories are not in the federal law, there are times they can help members of the LGBT (lesbian, gay bisexual or transgender) community.

HUD gave the following examples:

- A gay man is evicted because his landlord believes he will

infect others with HIV/AIDS. Although being gay is not a protected category, having a disability, or being perceived as having a disability, is a protected category. The man may be able to file a complaint of discrimination in housing on the basis of disability.

- A property manager asks a transgender man if he is a "boy or a girl." He then refuses to rent him an apartment because he appears to be a woman but has other physical expressions that are stereotypically male. Because the landlord refused to rent to him on the basis of his

non-conformity with gender stereotypes, the situation may constitute discrimination on the basis of sex under the Fair Housing Act.

The Bloomington Human Rights Ordinance includes sexual orientation and gender identity as protected categories to the extent possible under Indiana law.

If you have questions about your rights and responsibilities under fair housing and fair employment laws, please contact the BHRC.

## BHRC Seeking Nominations For Annual Award

The Bloomington Human Rights Commission is seeking nominations for its annual Human Rights Award.

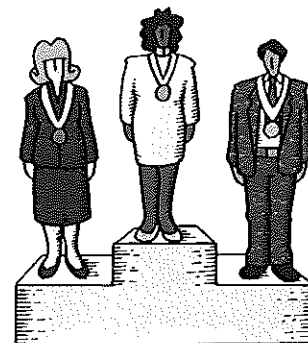
Nominees should be individuals or groups who have made specific, significant contributions to improving civil rights, human relations or civility in our community. The BHRC especially welcomes nominations demonstrating success in ensuring rights to equal access to housing, employment or education; ensuring equal access to community life for people with disabilities; and nominations of people or organizations that have done exemplary work

and advocacy in increasing civility and tolerance.

Past recipients include Bloomington High School North, Bloomington United, Dick McKaig, the Study Circles Project, Daniel Soto, John Clower, Clarence and Frances Gilliam, the Rev. Ernie Butler, the Council for Community Accessibility, Frank McCloskey, the Bill of Rights Defense Committee, WFHB Radio, Doug Bauder, Lillian Casillas, Helen Harrell and Voices & Visions.

The recipient or recipients of the award will be honored at a public

ceremony in January. Nominations are due by December 10, 2010. For a nomination form or for more information, call the BHRC at 349-3429 or email [human.rights@bloomington.in.gov](mailto:human.rights@bloomington.in.gov). The nomination form also is available on the City's website at [www.bloomington.in.gov/bhrc](http://www.bloomington.in.gov/bhrc). ♦





## **MLK Commission Seeks Volunteer Service Project Proposals**

The City of Bloomington's Dr. Martin Luther King, Jr. Birthday Celebration Commission and the City of Bloomington Volunteer Network invite community organizations to participate in "A Day On! Not A Day Off" on the federal Dr. Martin Luther King, Jr. Holiday, Monday, January 17, 2011. Groups are asked to plan meaningful service projects and educational initiatives that engage volunteers.

The King Commission has received funding from the Community Foundation of Bloomington and Monroe County and from Service for Peace to help pay for project supplies. Funding may be available to those who apply on-

line. Groups planning service projects should complete the on-line project registration form so the community can be made aware of projects and volunteer needs, whether or not they are applying for funding.

The application for funding assistance is available on the City's web site at [www.bloomington.in.gov/mlk](http://www.bloomington.in.gov/mlk). The deadline for applying for funds is December 3, 2010.

Applicants may include not-for-profit organizations, businesses, faith organizations, schools, community and neighborhood organizations, public and private agencies, student organizations

and governmental entities. City of Bloomington departments and commissions must partner with non-city organizations in order to apply for funding. Bloomington and other communities across the country will celebrate the Dr. Martin Luther King, Jr. Holiday by coming together in service to others. It is in this spirit that the King Commission and Volunteer Network are encouraging local organizations to offer opportunities for volunteer service.

If you have any questions please e-mail Craig Brenner at [brennerc@bloomington.in.gov](mailto:brennerc@bloomington.in.gov) or Bet Savich at [savichb@bloomington.in.gov](mailto:savichb@bloomington.in.gov). ♦

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